IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

WP(C).No. 16746 of 2007(R)

OA.209/2002 of DEBT RECOVERY TRIBUNAL, ERNAKULAM

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PETITIONER:

NARAYANA KUMAR,
S/O CHELLAPPAN PILLAI, POONURUTHA VEETTIL,
PATHIYOOR KIZHAKKUM MURI, PATHIYOOR EAST,
KAYAMKULAM, ALAPPUZHA DISTRICT.

BY ADV. SRI.G.HARIHARAN
SRI.PRAVEEN.H.

RESPONDENTS:

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1. STATE BANK OF TRAVANCORE,
ASSEST RECOVERY MANAGEMENT BRANCH,
S.B.T.BHAVAN, PANAMPILLY NAGAR,
ERNAKULAM 682036.

2. STATE BANK OF TRAVANCORE,
KAYAMKULAM BRANCH, KAYAMKULAM,
ALAPPUZHA DISTRICT. REPRESENTED BY ITS
BRANCH MANAGER.

3. RECOVERY OFFICER,
DEBT RECOVERY TRIBUNAL(KERALA & LAKSHADWEE),
VTH FLOOR, KSHB BUILDING, PANAMPILLY NAGAR,
KOCHI-682036.

4. GEORGE K.J., S/O JOSEPH,
KARALATHUMKARA, AZAD ROAD, ALUVA.

ADDL.5. K. SURENDRANATHAN, S/O. KRISHNAN UNNITHAN, AGED 48 YEARS,
RESIDING AT 'VAISHAKH', KAPPILEKKU, KRISHNAPURAMN P.O., ALAPPUZHA

ADDL. R5 IS IMPLEADED AS PER ORDER ON I.A. 10254 OF 2007 DATED 25.7.2007

BY ADV. SRI.SAJI VARGHESE
SRI.LAVARAJ M.G.
R1 AND R2 BY ADV. SRI.M.PATHROSE MATTHAI (SR.)
SRI.SREEJITH S.NAIR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE AUCTION NOTICE ISSUED BY THE THIRD RESPONDENT ON 10.3.2006

EXT.P2 TRUE COPY OF THE REQ1UISITION MADE BY THE PETITIONER ON 2.5.2007 FOR A ONE TIME SETTLEMENT BEFORE THE FIRST RESPONDENT.

EXT.P3 TRUE COPY OF THE REPLY DATED 7.5.2007 SENT BY THE FIRST RESPONDENT ADDRESSED TO THE PETITIONER.

EXT.P4 TRUE COPY OF ROUGH LOCATION SKETCH OF THE PETITIONER'S PROPERTY WHICH IS INCLUDED IN THE SALE PROCLAMATION.

1ST RESPONDENT'S EXHIBITS:

EXT.R1(a) TRUE COPY OF THE ORDER OF THIS HON'BLE COURT IN WPC 10816 OF 2006 DATED 7.4.2006

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 16746 OF 2007

Dated this the 9th day of August, 2007

JUDGMENT

Petitioner is challenging sale of petitioner's property in recovery proceedings to the fourth respondent for a consideration of 40,25,000/-. Since petitioner has offered to settle the liability due to the Bank, this Court granted stay against confirmation of sale and directed the petitioner to arrange sale. It is now submitted on behalf of petitioner and addl. fifth respondent that property sold for Rs. 40,25,000/- just two months back on 20.5.2007 is agreed to be sold to the addl. 5th respondent for Rs. 60 lakhs. According to the petitioner, even price offered by the 5th respondent is inadequate and the property is worth Rs. 1 crore. However he is compelled to make distress sale on account of impugned recovery and sale. In any case since the sale price now offered is 50% more than the price for which it was sold, and since sale is not confirmed, I feel sale has to be interfered with but on condition that purchaser is adequately compensated. W.P. is accordingly disposed of directing the petitioner or the addl. 5th respondent to pay to

the fourth respondent the entire amount deposited by him with five per cent thereon towards compensation through a demand draft in favour of the fourth respondent which should be deposited with the 3rd respondent if he does not receive it. Since the bank has not challenged the sale, Bank can appropriate the amount received towards sale consideration from the fourth respondent. Remittance made by the third respondent from sale will be credited to petitioner's loan account and if any excess is recovered the same will be refunded to the petitioner. The sale will stand set aside if the payment is made to the fourth respondent on or before 26.8.2007. If payment is made by the petitioner or purchaser as above, then petitioner will execute the sale deed in favour of the addl. 5th respondent or otherwise sale in favour of the fourth respondent will be confirmed in accordance with procedure.

(C.N.RAMACHANDRAN NAIR)
Judge